S.B. Civil Writ Petition NO.73/2003

State of Rajasthan

vs

Pritam Singh & Ors.

DATE OF ORDER : - 29.3.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. L.R.Upadhayay, Dy.GA, for the petitioner.
Mr. Ashwini Swami, for the respondent.

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Heard learned counsel for the parties.

It appears from the facts of the case that the land in question was allowed to one Smt. Gurnam Kaur on 22nd Sept., 1962 and it is alleged that the land was sold by said Smt. Gurnam Kaur to Smt. Pradhan Kaur on 12nd Dec., 1966. The allegation is that the land was sold without prior sanction of the State Government and, therefore, the State Government has right to resume the land as there is a violation of provision of Section 13 of the Rajasthan Colonization Act, 1954 by the allottee. The legal representatives of the purchasers of the land preferred appeal against the order of resumption of the land dated 3rd June, 1997 before the revenue appellate authority. The revenue appellate authority vide order dated 11.1.2000 observed that the appeal

of the appellants purchaser is barred by time. However, the appellate authority also examined the merit and observed that the required amount was not deposited in time, despite the time granted by the court below and, therefore, the order of resumption cannot be set aside.

The respondents-purchasers preferred revision petition before the Board of Revenue under Section 84 of the Land Revenue Act, 1956 and that revision petition was allowed by the Board of Revenue vide order dated 19.7.2002 after taking into consideration the notification dated 24.1.90 by which the provisions of Section 13(1) was withdrawn by the State Government. Therefore, the land could not have been resumed under Section 13(1) of the Act of 1954.

Without going into the effect of the notification dated 24.1.90, it is suffice to say that the land which was allotted in the year 1962 and alleged to have been sold in the year1966 and which could have been sold with the prior permission of the State Government and the subsequent purchaser have deposited the required amount vide Challan no.3953 dated 28th March, 1989 (Rs.2,000/-), vide Challan no.4041 dated 29th March, 1989 (Rs.2610/-) and vide Challan no.695 dated 29th Dec., 1992 (Rs.5200/-), therefore, there appears to be no reason for dispossessing the persons, who are in possession of the property since

such a long period. It will be worthwhile to mention here that according to learned counsel for the State also the condition of seeking prior permission before the sale of the land itself has been withdrawn by the State in the year 1991 .

Therefore, I do not find any reason to interfere in the order passed by the Board of Revenue. Hence, the writ petition of the petitioner is dismissed. However, the State will be free to recover any amount, if due, in the respondent for the land in question in accordance with law.

(Prakash Tatia), J.

c.p.goyal/-